

AMENDED IN SENATE MARCH 31, 2011

SENATE BILL

No. 40

Introduced by Senator Correa

December 6, 2010

An act to add Chapter 5.2 (commencing with Section 19990) to Division 8 of the Business and Professions Code, ~~and to amend Section 330b of the Penal Code~~, relating to Internet gambling.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as amended, Correa. Internet poker.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. Existing law provides for the enforcement of those regulations by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

This bill would establish a framework to authorize intrastate Internet poker, as specified. The bill would require the department to adopt regulations, in consultation with the California Gambling Control Commission, governing the intrastate play of poker games on the Internet, and would provide for ~~a licensed entity~~ *licensed entities* to operate ~~an up to 5 intrastate Internet poker Web-site sites, as described below~~. The bill would make it a misdemeanor for any person or entity to offer or participate in any form of illegal Internet gambling, as defined, or to process any financial transaction arising out of participation in illegal Internet gambling. ~~The bill would authorize the seizure of any money or property used in or derived from illegal Internet gambling, as specified, and would provide for any money or property~~

~~that has been seized to be forfeited to the Internet Gambling Fund, as established by this bill. By creating new crimes, this bill would impose a state-mandated local program.~~

This bill would permit these Internet Web sites to conduct a live online nonbanked, nonpercentage version of the card game poker within the borders of the State of California under the same rules, and with the same manner of compensation, as apply to poker games currently conducted in licensed gambling establishments and tribal class II gaming facilities. The bill would require the department to issue up to 3 licenses to own and operate intrastate Internet poker Web sites to eligible entities, as specified. The bill would require the department to report to the Legislature within 3 years if it has the capacity to regulate up to 2 additional Internet poker Web sites, and would authorize the department to issue licenses for up to 2 additional Internet poker Web sites upon subsequent legislative authorization.

The bill would authorize the department to assess fees on ~~the licensed entity~~ *licensed entities* in an amount reasonably necessary to reimburse the department for its costs in implementing and administering these provisions, including a registration fee. The bill also would require ~~the~~ *a* licensed entity to pay a license fee equal to ~~an unspecified percentage~~ *10%* of the fees collected by the licensed entity from players participating in poker games conducted on its Internet Web site. By imposing this fee, the bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature. The bill would provide for all fees to be remitted to the Internet Gambling Fund, ~~which would be as established by this bill and~~ administered by the Controller, subject to annual appropriation by the Legislature.

~~Existing law, subject to exceptions, generally prohibits the possession and use of a slot machine or device, as defined, and prohibits certain other acts and transactions pertaining to slot machines or devices. Existing law provides varying definitions of slot machine or device for these purposes. Violations of these provisions are punishable by varying misdemeanor penalties.~~

~~This bill would provide that personal, networked, or server computers are not included within the term slot machine or device, for purposes of these provisions, if operated pursuant to a valid license or permit to operate an intrastate Internet poker Web site, as defined.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Leading gaming consultants estimate that in 2005, United
4 States citizens illegally wagered four billion dollars
5 (\$4,000,000,000) online at off-shore, non-United States Internet
6 gambling Web sites, and that every week more than 1,000,000
7 California citizens play poker on the Internet.

8 (b) Currently, 2,300 Internet gambling Web sites operate outside
9 the United States, unregulated by any United States governmental
10 entity and in violation of United States laws. Questions often arise
11 about the honesty and the fairness of the games played on these
12 Internet Web sites, and about the true purpose for, and use of,
13 proceeds generated by these unregulated Internet Web sites.

14 (c) In 2006, Congress passed, and the President signed, the
15 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).
16 While UIGEA prohibits the use of banking instruments such as
17 credit cards, checks, or fund transfers for interstate Internet
18 gambling, the statute has not eliminated illegal, unregulated Internet
19 gambling, nor has it provided any increased protection for
20 participants from game operators and others who would impair
21 the integrity of online gambling activity.

22 (d) Congress included specific provisions in the UIGEA for
23 individual states to permit intrastate Internet gambling, provided
24 that state laws permitting and regulating that activity could impose
25 reasonable protections against participation by underage persons
26 or by persons located outside the boundaries of the states
27 authorizing that activity.

28 (e) It is in the best interest of the state and its citizens to permit
29 operation of—a government-regulated intrastate Internet poker
30 wagering Web-site *sites* because only through that authorization

1 and regulation can Californians be ensured that the games they are
2 playing are honest, that winners are paid when and in amounts
3 due, and that the state and its citizens, rather than illegal off-shore
4 companies *operating outside the reach of, and contrary to, state*
5 *and federal laws*, will benefit from economic activity in the state.
6 Further, it is in the interest of the state to adopt a statutory basis
7 for the regulation of intrastate Internet poker adequate to shield
8 the state and players from organized crime and other corrupting
9 influences, ensure that intrastate Internet poker is conducted fairly
10 and honestly by both ~~a licensed entity~~ *licensed entities* and the
11 players, confirm the integrity of all activities conducted pursuant
12 to this act, and protect the public health, welfare, and safety of all
13 Californians.

14 (f) The California Constitution provides that “slot machines”
15 can only be played if located on Indian lands and offered by an
16 Indian tribe pursuant to a tribal-state gaming compact, and thus,
17 the use of the devices connected to the Internet for gambling would
18 violate the California Constitution unless those devices are solely
19 used for the conveyance of information related to the play of
20 nonbanked, nonpercentage poker games.

21 (g) The only practical and economically feasible way to ensure
22 that Internet poker conducted entirely within California’s borders
23 receives governmental oversight adequate to ensure that the Internet
24 Web site offering the gaming remains honest, safe, and in
25 compliance with all applicable state and federal laws, and that the
26 State of California receives the economic benefits from that activity
27 to which the state is entitled, would be to limit that activity to ~~the~~
28 ~~Internet Web site owned and operated by a licensed entity formed~~
29 ~~under the laws of this state up to five Internet Web sites owned and~~
30 *operated by entities formed under the laws of this state, or*
31 *otherwise qualified to do business in this state*, and owned and
32 operated by business entities licensed under the Gambling Control
33 Act to own and operate gambling establishments ~~licensed to operate~~
34 in this state as of January 1, 2011, and the governments or wholly
35 owned subentities of federally recognized California tribal
36 governments. Because California law permits the operation of
37 poker and other nonbanking, nonpercentage card games, those
38 tribal governments are entitled under the federal Indian Gaming
39 Regulatory Act (IGRA), to operate poker and other nonbanking

1 and nonpercentage card games ~~on their Indian lands~~ without having
2 to enter into class III gaming compacts with the State of California.

3 *(h) There is statutory precedent for the state to authorize existing*
4 *entities to form associations or corporations to offer simulcast*
5 *wagering and advance deposit wagering over the Internet on live*
6 *horse racing meetings.*

7 *(i) Because the game of poker will be played live over the*
8 *Internet pursuant to this act, it is the intent of the Legislature that*
9 *similar authorization be given to California's existing poker*
10 *industry to form business entities that may be licensed to conduct*
11 *the live online play of poker under this act.*

12 *(j) There are 109 federally recognized tribal governments in*
13 *California and 91 California licensed gambling establishments.*
14 *To provide the broadest distribution of these Internet poker*
15 *licenses, recognize the large number of establishments and tribal*
16 *governments offering or authorized to offer the game of poker in*
17 *land-based operations, and maximize revenue to the State of*
18 *California, the eligible entities that include the greatest numbers*
19 *of licensed gambling establishments and federally recognized*
20 *California tribal governments shall be selected for licensure to*
21 *own and operate intrastate Internet poker Web sites pursuant to*
22 *this act.*

23 ~~(h)~~

24 *(k) The purpose of this act is to provide persons over 21 years*
25 *of age who are physically present within the State of California*
26 *and desire to use the Internet to play poker games that are not*
27 *prohibited by California law, and in a manner consistent with*
28 *existing law, with a lawful, highly regulated means of doing so in*
29 *conformity with all applicable laws and regulations. Therefore,*
30 *nothing in this act, which authorizes the intrastate use of the*
31 *Internet to conduct poker games, shall be construed to expand the*
32 *term "gambling," as used in Article 13 (commencing with Section*
33 *19960) of Chapter 5 of Division 8 of the Business and Professions*
34 *Code.*

35 ~~(i)~~

36 *(l) It is in the interest of the state and its citizens to increase*
37 *sources of nontax, nonstate revenue for tribal governments to*
38 *enhance their ability to provide services to their communities.*

39 ~~(j)~~

1 (m) By enacting this act, the Legislature is expressly authorizing
2 intrastate Internet poker within the State of California only in the
3 limited and regulated form provided herein. This express
4 authorization does not authorize any other form or type of gambling
5 over the Internet.

6 SEC. 2. Chapter 5.2 (commencing with Section 19990) is added
7 to Division 8 of the Business and Professions Code, to read:

8
9 CHAPTER 5.2. INTRASTATE INTERNET POKER

10
11 19990. The following terms shall have the following meanings:

12 (a) "Department" means the Department of Justice and the entity
13 within the department that is responsible for fulfilling the
14 obligations imposed upon the department by this chapter.

15 (b) *"Eligible entity" means a business entity formed under the*
16 *laws of this state, or qualified to do business in this state, that is*
17 *owned by persons or entities licensed by the California Gambling*
18 *Control Commission to own gambling establishments as of January*
19 *1, 2011, or by the government or governments of federally*
20 *recognized California Indian tribes, or the wholly owned*
21 *subentities of those tribes, or by any combination of those gambling*
22 *establishment licensees and California tribal governments or*
23 *wholly-owned subentities of those tribes.*

24 ~~(b)~~
25 (c) "Gambling" has the same meaning as set forth in subdivision
26 (l) of Section 19805.

27 ~~(e)~~
28 (d) "Gambling establishment" has the same meaning as set forth
29 in subdivision (o) of Section 19805.

30 ~~(d)~~
31 (e) "Illegal gambling" means participating in, or engaging in
32 conduct that materially aids, any form of gambling that is not
33 conducted pursuant to a tribal-state gaming compact or not
34 otherwise authorized by the laws of this state or the laws of the
35 United States.

36 ~~(e)~~
37 (f) "Illegal Internet gambling" means illegal gambling conducted
38 over the Internet.

39 ~~(f)~~

1 (g) “Internet” means the international computer network of
2 interoperable packet switched data networks.

3 ~~(g)~~

4 (h) “Intrastate” means within the geographical borders of *the*
5 *State of California*.

6 ~~(h)~~

7 (i) “Intrastate Internet poker” means any nonbanked,
8 nonpercentage poker game approved for play through use of the
9 Internet within the state by the department, and that is conducted
10 in accordance with this chapter.

11 ~~(i)~~

12 (j) “Licensed entity” means ~~a legal entity formed under the laws~~
13 ~~of the State of California by gambling establishments licensed to~~
14 ~~operate in this state as of January 1, 2011, and the governments~~
15 ~~of federally recognized California Indian tribes eligible to operate~~
16 ~~poker games on their Indian lands, or wholly owned subentities~~
17 ~~of those tribes, an eligible entity to which the department has issued~~
18 ~~a license pursuant to this chapter for the purpose of operating an~~
19 Internet Web site offering persons over 21 years of age who are
20 physically present within the State of California the opportunity
21 to play approved poker games on the Internet within the
22 geographical boundaries of the State of California.

23 ~~(j)~~

24 (k) “Person” means an individual, partnership, corporation,
25 limited liability company, or other business entity, including a
26 federally recognized California Indian tribe or a subentity of such
27 a tribe that is wholly owned by the tribe.

28 ~~(k)~~

29 (l) “Web site” means the unique Uniform Resource Locator of
30 ~~the~~ a licensed entity through which the licensed entity is authorized
31 to operate intrastate Internet poker games.

32 19991. (a) No person or other entity may operate, for
33 consideration, poker ~~or other card~~ games over the Internet in
34 California unless licensed to provide those games by the
35 department pursuant to this chapter and any regulations adopted
36 thereunder. Intrastate Internet poker is hereby authorized, but only
37 to the extent, and in the manner, prescribed in this chapter.

38 (b) Any person or entity that offers or participates in illegal
39 Internet gambling, or processes any financial transactions arising
40 out of, or in connection with, participation in illegal Internet

1 gambling, is guilty of a misdemeanor, and shall be punished by a
2 fine of up to ten thousand dollars (\$10,000) and imprisonment in
3 a county jail for up to one year.

4 ~~(e) Any money, other representative of value, or real or personal~~
5 ~~property used in, or derived from, illegal Internet gambling shall~~
6 ~~be subject to seizure by the department or any peace officer. Upon~~
7 ~~a finding by the Superior Court that the money, other representative~~
8 ~~of value, or real or personal property was used in, or derived from,~~
9 ~~illegal Internet gambling, that money or property shall be forfeited~~
10 ~~to the Internet Gambling Fund established in Section 19998.~~

11 19992. (a) Within 90 days of the effective date of the act
12 adding this chapter, the department shall adopt regulations, in
13 consultation with the California Gambling Control Commission,
14 governing the intrastate play of poker games on the Internet to
15 provide persons over 21 years of age who are physically present
16 in California with the same protections enjoyed by persons playing
17 in gambling establishments or in tribally owned gaming facilities.
18 The department may issue licenses and promulgate regulations as
19 it determines may be necessary to implement the provisions of this
20 chapter, protect that gaming from criminal influences, and protect
21 the public health, welfare, and safety of the people of California,
22 *but shall give priority in the adoption of regulations to the licensing*
23 *of the three categories of entities enumerated in paragraph (1) of*
24 *subdivision (b).* However, persons licensed by the California
25 Gambling Control Commission to own or operate a gambling
26 establishment, the governments of California Indian tribes
27 recognized by the United States Department of the Interior, Bureau
28 of Indian Affairs, or the wholly owned subentities of those tribal
29 governments shall not be required to apply for or obtain licenses
30 to own interests in a licensed entity.

31 (b) The regulations adopted pursuant to subdivision (a) shall
32 provide both of the following:

33 (1) Procedures by which ~~a licensed~~ *an* entity may apply for a
34 license to operate an Internet Web site through which persons over
35 21 years of age and physically present within the state may play
36 intrastate Internet poker, with the objective of facilitating the
37 commencement of operation of the licensed entity's authorized
38 Internet Web site as quickly as possible, thereby accelerating the
39 receipt of revenues by the state.

1 (2) Procedures by which persons over 21 years of age who are
2 physically present in the state may register to lawfully engage in
3 intrastate Internet poker games through an Internet Web site owned
4 and operated by ~~the~~ a licensed entity.

5 (c) The intrastate Internet poker games shall be honestly and
6 fairly run.

7 (d) ~~The~~ A licensed entity may offer intrastate Internet poker
8 games pursuant to this chapter only on a network approved by the
9 department containing an Internet Web site that is registered with
10 the department to offer that service. ~~The~~ A licensed entity shall
11 not offer, for consideration, any form of Internet poker game
12 independent of that network.

13 (e) A person desiring to play intrastate Internet poker shall
14 register with ~~the~~ a licensed entity by presenting documentation,
15 upon logging on to the licensed entity's intrastate Internet poker
16 Web site, that the person is at least 21 years of age and is physically
17 present within the state. After verifying the validity of the proffered
18 documentation and confirming the person's physical presence
19 within this state, the person may be permitted to play any intrastate
20 Internet poker game provided by the licensed entity, subject to the
21 licensed entity's right to exclude from participation in intrastate
22 Internet poker games any person reasonably determined to be
23 unsuitable to participate in those games, or whose participation
24 would be contrary to requests concerning self-exclusion or limits
25 on losses, amounts wagered, or playing time.

26 (f) ~~The~~ A licensed entity's intrastate Internet poker Web site
27 shall use the services of an independent third party licensed by the
28 department to perform identification, physical presence in the state,
29 and age verification services for persons registering to play
30 intrastate Internet poker games.

31 (g) ~~The~~ A licensed entity's intrastate Internet poker Web site
32 shall use personal identification numbers and other technology so
33 that only the registered person has access to his or her wagering
34 account, and that games can be played only from within the
35 geographical borders of the state.

36 (h) ~~The~~ A licensed entity shall provide for withdrawals from
37 the wagering account only by check, made payable to the account
38 holder and sent to the address of the account holder in the state,
39 or by an electronic transfer to an account held by the verified
40 account holder at a financial institution located within the state.

1 The account holder also may withdraw funds from the wagering
2 account at a licensed gambling establishment or tribal gaming
3 facility participating in ~~the~~ *a* licensed entity by presenting valid
4 identification and verifiable personal and account information.

5 (i) ~~The~~ *A* licensed entity's intrastate Internet poker Web site
6 shall provide information on problem gambling, including a
7 problem gambling hotline telephone number that a person may
8 call to seek information and assistance for a potential gambling
9 addiction, and shall offer responsible gambling services, such as
10 self-exclusion, limits on losses, amounts wagered, and playing
11 time, and other services as the department reasonably may
12 determine are appropriate.

13 (j) ~~The~~ *A* licensed entity shall allow the department access to
14 its operating premises at any time and without notice to visit,
15 investigate, and place expert accountants and other persons it deems
16 necessary to ensure strict compliance with its regulations
17 concerning game integrity, credit authorization, account access,
18 and other security provisions, if those activities do not interfere
19 with the normal lawful functioning of the licensed entity's
20 operations.

21 (k) ~~The~~ *A* licensed entity shall offer, at the time of registration,
22 the option to place a limitation on the amount of funds that may
23 be transferred into a wagering account within any 24-hour period.
24 The licensed entity shall adopt procedures to ensure that the player
25 may not deposit more funds into the account than the amount
26 specified. If, after the wagering account is opened, a person wishes
27 to increase the amount of funds that may be transferred, the
28 licensed entity may increase the amount after obtaining and
29 verifying the validity of identification and personal information.
30 However, that increase shall not be effective until at least 48 hours
31 after the change is requested.

32 (l) ~~The~~ *A* licensed entity shall conduct intrastate Internet poker
33 games in the same manner as those games are conducted in licensed
34 gambling establishments or tribally owned gaming facilities in the
35 state, except that the games shall be played with computers, rather
36 than with tangible cards and chips, and the virtual cards shall be
37 shuffled and dealt by the licensed entity's computer system, rather
38 than by a natural person. Only nonbanked, nonpercentage poker
39 games approved for play within the state by the department may
40 be offered for play on ~~the~~ *a* licensed entity's intrastate Internet

Web site. ~~The A~~ licensed entity's intrastate Internet Web site may collect fees from players in authorized poker games pursuant to the same player fee collection methods approved by the department under state law for use within nontribal licensed gambling establishments in California.

(m) The department shall assess fees ~~on the licensed entity~~ *licensed entities* in the ~~amount~~ *amounts* reasonably necessary to reimburse the department for its costs in implementing and administering this chapter, protecting that gaming from criminal influences, and protecting the public health, welfare, and safety of the people of California.

1992.5. (a) *There shall be authorized up to five Internet Web sites to conduct a live online nonbanked, nonpercentage version of the card game poker pursuant to this chapter within the borders of the State of California under the same rules, and with the same manner of compensation, as apply to poker games currently conducted in licensed gambling establishments and tribal class II gaming facilities.*

(b) *The department shall issue up to three licenses to own and operate intrastate Internet poker Web sites pursuant to this chapter to eligible entities consisting of any of the following:*

(1) *Licensed gambling establishments and federally recognized California tribal governments.*

(2) *Federally recognized California tribal governments.*

(3) *Licensed gambling establishments.*

(c) *The department shall select the eligible entities that include the greatest numbers of individual entities as specified subdivision (b).*

(d) *Notwithstanding Section 10231.5 of the Government Code, within three years of commencing the play of live online Internet poker pursuant to this chapter, the department shall report to the Legislature if it has the capacity to regulate up to two additional Internet poker Web sites. The department may issue licenses for up to two additional Internet poker Web sites upon subsequent legislative authorization.*

1993. After the regulations required by subdivision (a) of Section 1992 are adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), an entity seeking to be licensed to offer intrastate Internet poker games shall

1 apply to the department for licensure to engage in that activity.
2 The department shall charge the entity a registration fee sufficient
3 to cover all costs associated with the issuance of the license,
4 including any necessary background investigation.

5 19994. In addition to any licensing or other administrative fees
6 that the department may assess as reimbursement for the costs of
7 implementing this chapter, ~~the a~~ licensed entity shall pay to the
8 state a license fee equal to ~~_____ percent~~ *to 10 percent* of the fees
9 collected by the licensed entity from players participating in poker
10 games conducted on its Internet Web site.

11 19995. In the event that any federal statute now in effect or
12 hereafter enacted either affirmatively authorizes, or repeals existing
13 prohibitions against, the interstate or international play on the
14 Internet of house-banked or percentage games of chance, or games
15 such as poker in which there is an element of chance but a player's
16 skill predominates over the element of chance in determining the
17 outcome of the game, and the federal statute allows a state to be
18 excluded from application of that statute, the Governor and the
19 Legislature shall take any action necessary to opt out of the
20 application of that statute to persons physically present within the
21 geographical borders of the state.

22 19996. Nothing in this chapter shall be interpreted to authorize
23 the play of intrastate Internet poker in a manner that circumvents
24 the limitation on gambling establishments, or the limitation on
25 gambling tables, pursuant to Chapter 5 (commencing with Section
26 19800), and related state and local laws, *or to authorize the*
27 *operation of public or private facilities the primary purpose of*
28 *which is the online play for consideration of poker or other forms*
29 *of gaming.*

30 19997. If a court of competent jurisdiction determines that the
31 enactment or implementation of this chapter entitles any California
32 Indian tribe that is a party to a class III tribal-state gaming compact
33 with the state to terminate or reduce payments to the Indian Gaming
34 Revenue Sharing Trust Fund required by the compact on the ground
35 that the state has breached the compact by enacting or
36 implementing this chapter, all funds then on deposit in the Indian
37 Gaming Revenue Trust Fund shall continue to be distributed
38 quarterly in equal shares to all federally recognized California
39 Indian tribes entitled to receive disbursements from the fund until
40 all funds on deposit in the fund have been disbursed.

19998. (a) The state's percentage of player fees collected by the licensed entity, and any other fees paid by the licensed entity, licensed entities, and any other fees paid by licensed entities, shall be remitted to the Controller for deposit in the Internet Gambling Fund, which is hereby created in the State Treasury. The fund shall be administered by the Controller for the purposes of this chapter, subject to annual appropriation by the Legislature.

(b) On or before March 31 of each year, each state agency with responsibilities imposed under this chapter shall submit a revenue needs request to fulfill those duties for the next fiscal year to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Governmental Organization, and the Department of Finance. Each submission of revenue needs shall specify the justification for those costs.

(c) On or before March 31 of each year, the State Department of Alcohol and Drug Programs, Office of Problem Gambling shall submit a revenue needs request for programs to address problem gambling that results from the offering of authorized games for the next fiscal year to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Governmental Organization, the Senate and Assembly Committees on Human Services, and the Department of Finance. Each submission of revenue needs shall specify the justification for those costs.

(d) All remaining proceeds not allocated pursuant to subdivisions (b) and (c) shall remain in the Internet Gambling Fund, subject to appropriation by the Legislature for purposes related to this chapter.

19999. A city, county, or city and county shall not regulate, tax, or enter into a contract with respect to any matter related to this chapter.

~~SEC. 3. Section 330b of the Penal Code is amended to read:~~

~~330b. (a) It is unlawful for any person to manufacture, repair, own, store, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to repair, sell, rent, lease, let on shares, lend or give away, or permit the operation, placement, maintenance, or keeping of, in any place, room, space, or building owned, leased, or occupied, managed, or controlled by that person, any slot machine or device, as defined in this section.~~

1 It is unlawful for any person to make or to permit the making of
2 an agreement with another person regarding any slot machine or
3 device, by which the user of the slot machine or device, as a result
4 of the element of hazard or chance or other unpredictable outcome,
5 may become entitled to receive money, credit, allowance, or other
6 thing of value or additional chance or right to use the slot machine
7 or device, or to receive any check, slug, token, or memorandum
8 entitling the holder to receive money, credit, allowance, or other
9 thing of value.

10 (b) ~~The limitations of subdivision (a), insofar as they relate to~~
11 ~~owning, storing, possessing, or transporting any slot machine or~~
12 ~~device, do not apply to any slot machine or device located upon~~
13 ~~or being transported by any vessel regularly operated and engaged~~
14 ~~in interstate or foreign commerce, so long as the slot machine or~~
15 ~~device is located in a locked compartment of the vessel, is not~~
16 ~~accessible for use, and is not used or operated within the territorial~~
17 ~~jurisdiction of this state.~~

18 (c) ~~The limitations of subdivision (a) do not apply to a~~
19 ~~manufacturer's business activities that are conducted in accordance~~
20 ~~with the terms of a license issued by a tribal gaming agency~~
21 ~~pursuant to the tribal-state gaming compacts entered into in~~
22 ~~accordance with the Indian Gaming Regulatory Act (18 U.S.C.~~
23 ~~Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.).~~

24 (d) ~~For purposes of this section, "slot machine or device" means~~
25 ~~a machine, apparatus, or device that is adapted, or may readily be~~
26 ~~converted, for use in a way that, as a result of the insertion of any~~
27 ~~piece of money or coin or other object, or by any other means, the~~
28 ~~machine or device is caused to operate or may be operated, and~~
29 ~~by reason of any element of hazard or chance or of other outcome~~
30 ~~of operation unpredictable by him or her, the user may receive or~~
31 ~~become entitled to receive any piece of money, credit, allowance,~~
32 ~~or thing of value, or additional chance or right to use the slot~~
33 ~~machine or device, or any check, slug, token, or memorandum,~~
34 ~~whether of value or otherwise, which may be exchanged for any~~
35 ~~money, credit, allowance, or thing of value, or which may be given~~
36 ~~in trade, irrespective of whether it may, apart from any element of~~
37 ~~hazard or chance or unpredictable outcome of operation, also sell,~~
38 ~~deliver, or present some merchandise, indication of weight,~~
39 ~~entertainment, or other thing of value.~~

1 ~~(e) Any person who violates this section is guilty of a~~
2 ~~misdemeanor.~~

3 ~~(1) A first violation of this section shall be punishable by a fine~~
4 ~~of not less than five hundred dollars (\$500) nor more than one~~
5 ~~thousand dollars (\$1,000), or by imprisonment in a county jail not~~
6 ~~exceeding six months, or by both that fine and imprisonment.~~

7 ~~(2) A second offense shall be punishable by a fine of not less~~
8 ~~than one thousand dollars (\$1,000) nor more than ten thousand~~
9 ~~dollars (\$10,000), or by imprisonment in a county jail not~~
10 ~~exceeding six months, or by both that fine and imprisonment.~~

11 ~~(3) A third or subsequent offense shall be punishable by a fine~~
12 ~~of not less than ten thousand dollars (\$10,000) nor more than~~
13 ~~twenty-five thousand dollars (\$25,000), or by imprisonment in a~~
14 ~~county jail not exceeding one year, or by both that fine and~~
15 ~~imprisonment.~~

16 ~~(4) If the offense involved more than one machine or more than~~
17 ~~one location, an additional fine of not less than one thousand dollars~~
18 ~~(\$1,000) nor more than five thousand dollars (\$5,000) shall be~~
19 ~~imposed per machine and per location.~~

20 ~~(f) Pinball and other amusement machines or devices, which~~
21 ~~are predominantly games of skill, whether affording the opportunity~~
22 ~~of additional chances or free plays or not, are not included within~~
23 ~~the term slot machine or device, as defined in this section.~~

24 ~~(g) Personal, networked, or server computers are not included~~
25 ~~within the term “slot machine or device,” as defined in this section~~
26 ~~or Section 330.1, or as used in subdivision (f) of Section 19 of~~
27 ~~Article IV of the California Constitution or Section 330a of this~~
28 ~~code, if operated pursuant to a license or permit in compliance~~
29 ~~with Chapter 5.2 (commencing with Section 19990) of Division~~
30 ~~8 of the Business and Professions Code, solely for the purpose of,~~
31 ~~or in connection with, allowing participation in nonbanked,~~
32 ~~nonpercentage poker games authorized and regulated pursuant to~~
33 ~~Chapter 5.2 (commencing with Section 19990) of Division 8 of~~
34 ~~the Business and Professions Code, and not for the purpose of~~
35 ~~participating in any other form of gaming activity.~~

36 ~~SEC. 4.~~

37 *SEC. 3.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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